THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.7191 OF 2005

Dated: 27-01-2006

Between

Sri Sri Sri Maridimamba Temple
Committee, College Kothuru
Village, rep. by its Chairman
Mosuri Appa Rao, S/o, Appala
Naidu, R/o. College Kothuru
Village, Anakapalle Mandal,
Visakhapatnam District.

...PETITIONER

AND

The National Highway Authority of
India, rep. by its Project Director,
Marripalem, Visakhapatnam and
another.

...RESPONDENTS

ORDER:

When the writ petition came up for admission on 01.04.2005 this Court while directing the matter to be listed after two weeks granted interim stay of demolition in the meanwhile.

Thereafter, the counter was filed in the month of November 2005. When the matter came up for further hearing there was no representation on behalf of the petitioner. Therefore, the interim stay granted on 01.04.2005 was vacated by order dated 15.12.2005.

Counter has been filed stating that the temple has been constructed in the Government land by way of encroachment and the temple has been acquired by National Highway Authority of India under the National Highways Act, 1956 (for short 'the Act') and due compensation has been paid to the Temple Committee. The temple was demolished for the purpose of widening the national highway after following due process of law in terms of the Act. The temple committee has again constructed the said temple in the acquired land belonging to the National Highway Authority of India. It is further stated that, in fact, following due process of law only the compensation amount of Rs.13,500/- has been paid. Therefore, it cannot be said that the respondents have violated the principles of natural justice or that the temple was demolished without following due process of law.

This Court is of the opinion that once the compensation has been paid, the action of the petitioner in encroaching and constructing the temple again in the land belonging to Government itself is illegal and without jurisdiction.

The writ petition is accordingly dismissed.

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V. ESWARAIAH, J

January 27, 2006

DSK